

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,)
)
Petitioner,)
)
V.) CIVIL ACTION NO. SA-12-CV-383-FB-JWP
)
REAL PROPERTY KNOWN AS A SINGLE-)
FAMILY RESIDENCE AND ADJACENT)
LOT, LOCATED AND SITUATED AT)
3911 LUZ DEL FARO, SAN ANTONIO,)
BEXAR COUNTY, TEXAS,)
)
Respondent.)

**UNITED STATES OF AMERICA'S
MOTION TO STAY CIVIL PROCEEDINGS**

Comes now Petitioner, United States of America, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, and files its Motion to Stay Civil Proceedings in the above-styled and numbered cause pursuant to the provisions of Title 18 U.S.C. § 981(g)(1), which governs civil forfeiture proceedings. In support thereof, the United States respectfully states as follows:

I.

On April 23, 2012, the United States filed a Verified Complaint for Forfeiture against certain property, namely: **Real Property Known as a Single-family Residence and Adjacent Lot Located and Situated at 3911 Luz Del Faro, San Antonio, Bexar County, Texas**, with all buildings, appurtenances, and improvements thereon and any and all surface and sub-surface rights, title and interests, if any, and being more fully described as follows:

Lots 3 and 4, Block 168, Cibolo Canyon-Unit 7A, Enclave, Bexar County, Texas, according to plat thereof recorded in Volume 9584, Page(s) 16-19, Deed and Plat Records of Bexar County, Texas,

hereinafter referred to as Respondent Real Property, alleging violations of Title 18 U.S.C. §§ 1956 and 1957, subject to forfeiture to the United States of America pursuant to Title 18 U.S.C. §§ 981(a)(1)(A) and (C). The facts of said Verified Complaint for Forfeiture are contained in Appendix A, entitled, "Facts in Support of Forfeiture" which were filed separately and remain under seal.

On April 24, 2012, this Court issued an Order to Post Notice of Complaint for Forfeiture of Respondent Real Property (Doc. 4). Accordingly, the Respondent Real Property was posted with notice June 27, 2012 (Doc. 20). The Notice of Complaint for Forfeiture was duly published on an official government internet website (www.forfeiture.gov), for at least 30 consecutive days, beginning on May 5, 2012, and ending on June 3, 2012, as required by Rule G(4)(a)(iv)(C), Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. As evidence of such, the Declaration of Publication (Doc. 6) was filed on June 14, 2012.

II.

The following individuals were served with the Notice of Complaint for Forfeiture as follows:

1. Alvaro Briseno, individually and in the capacity of Registered Agent for Alpes Group, LLC, received personal service of notice on July 12, 2012 (Doc. 21);
2. Lorenzo Schuessler, individually and in the capacity of Manager and Director for Alpes Group, LLC, received personal service of notice on July 12, 2012 (Doc. 22);
3. Itzel Schuessler received service of notice by and through her attorney, Van Hilley, on July 25, 2012 (Doc. 23);
4. Hector Javier Villarreal received direct notice in Mexico via UPS on June 26, 2012 (Doc. 24);
5. Maria Teresita Botello Gamez received direct notice in Mexico via UPS on June 27, 2012 (Doc. 25);
6. Attorney Dennis Sanchez received direct notice via UPS on June 27, 2012 (Doc. 26);

7. Bexar County Tax Assessor/Collector received personal service of notice on July 12, 2012 (Doc. 27);
8. Bexar County Tax Appraisal District received personal service of notice on July 12, 2012 (Doc. 28); and
9. Any and all other potential claimants were served by publication of public notice as aforementioned in the Declaration of Publication (Doc. 6).

III.

On June 19, 2012, Bexar County, Texas Taxing Authorities filed a Verified Claim (Doc. 9), and Answer (Doc. 8), asserting its interest in the Respondent Real Property. On June 26, 2012, Alpes Group, LLC, filed an Appearance and Claim to the Res (Doc. 10), asserting its interest in the Respondent Real Property. Court records for the United States District Clerk's Office, San Antonio Division, reveal that no other claims or answers have been filed in this cause of action.

IV.

The United States now files the instant motion pursuant to Title 18 U.S.C. § 981(g)(1), which states:

(g)(1) Upon the motion of the United States, the court shall stay the civil forfeiture proceeding if the court determines that civil discovery will adversely affect the ability of the Government to conduct a related criminal investigation or the prosecution of a related criminal case.

The United States advises the Court that the facts detailed in the Verified Complaint for Forfeiture filed in this instant civil forfeiture case are the same facts and circumstances which gave rise to a related criminal investigation.

The United States respectfully advises that no scheduling order has been entered in the instant civil forfeiture action; however, proceeding with civil discovery in the instant case will adversely affect the ability of the Government to conduct the related criminal investigation.

Specifically, proceeding with civil discovery in the instant case will immediately alert the subjects of the investigation to the identities of individuals providing information, subjecting those individuals and the agents to physical danger. Also, continuing with civil discovery would present the potential for destruction of evidence and would compromise the gathering of this evidence for criminal prosecution. As such, the United States in good faith and for good cause, moves the Court to stay the instant civil forfeiture case to allow the criminal investigation to proceed to its conclusion, at which time the United States will move to lift the stay and resolve the instant civil case.

WHEREFORE, PREMISES CONSIDERED, Petitioner, United States of America, respectfully moves this Honorable Court to stay the instant civil proceedings in the above-styled and numbered cause until the conclusion of the related, underlying criminal investigation, and for such other and further relief this Court deems just and proper.

Respectfully submitted,

ROBERT PITMAN
United States Attorney

By: /s/ _____
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CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2012, the foregoing instrument was electronically filed with the Clerk of the Court using the CM/ECF System. Notification of such filing will be sent electronically to CM/ECF participants:

Dennis M. Sanchez
Sanchez, Whittington, Zabarte & Wood, LLC
3505 Boca Chica Blvd., Suite 100
Brownsville, TX 78521
Attorney representing Claimant Alpes Group, LLC

Kent Morrison Rider
Lori Gruver
Linebarger, Goggan, Blair & Sampson, LLP
P.O. Box 17428
Austin, TX 78760
Attorneys representing Bexar County, Texas Taxing Authorities

/s/_____

Mary Nelda G. Valadez
Assistant United States Attorney

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ORDER TO STAY CIVIL PROCEEDINGS

Came on to be considered the United States of America's Motion to Stay Civil Proceedings in the above-styled and numbered cause pursuant to the provisions of Title 18 U.S.C. § 981(g)(1). This Court being fully and wholly apprised in all its premises, finds that said Motion is meritorious and should be, and hereby is, in all things GRANTED. IT IS THEREFORE

ORDERED that all proceedings applicable to all parties in the instant civil forfeiture case are STAYED pending the conclusion of the underlying related criminal investigation.

IT IS SO ORDERED.

SIGNED this _____ day of February, 2013.

FRED BIERY
Chief United States District Judge